



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Mitchell R. Swartz

Serial no. 09/750, 480

Group Art Unit: 3641

Examiner: R. Palabrica

Filed: 12/28/00

For: **METHOD AND APPARATUS
TO MONITOR LOADING
USING VIBRATION**

This is a continuation of Serial no. 07/371,937

Filed: 06/27/89

DECLARATION OF DR. MITCHELL SWARTZ

I, Mitchell R. Swartz, declare that I am a citizen of the United States of America and the inventor of the invention described in the above-entitled application.

1. I have a background in electrical engineering, material science, electrochemistry, and medicine, and have worked in these fields for thirty years; and have worked on medical and scientific experimental projects at the Massachusetts Institute of Technology, Massachusetts General Hospital, Harvard Medical School and elsewhere.


2. I received the Office's communication [Exhibit "A" attached, mailed 9/5/06]. Said Communication refers to a purported Office response dated "July 6, 2005" (according to Exhibit "A").

3. I have never received any purported Office response dated "July 6, 2005" (according to Exhibit "A") or any date thereafter.

4. Mr. Palabrica's failure to send a copy of his so-called "response", dated "July 6, 2005", to the Applicant is egregious but is apparently consistent with Mr. Palabrica's past behavior. For example, as documented by the Board of Patent Appeals in August 2006 on another case, Serial No: 07/339,976 Filed: 4/18/89. In said case, Appellant received an Order from the Board to the Examiner, entitled "Order Returning Undocketed Appeal To Examiner" which heralded that the Examiner had at last written a Second Answer on or about June, 2006. Said Order stated, **"According to PALM, there is a second subsequent examiner's answer mailed June 2, 2006."** Appellant never received a copy of said Second Answer in that case.

I declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Signature of Inventor:
September 8, 2006



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